

## Office of Personnel Management

## § 847.202

(c) OPM will determine if an employee who wishes to make an election under 5 CFR part 847, subpart H, is eligible to make such an election, and OPM's determination is subject to reconsideration under 5 CFR part 831, subpart A, or 5 CFR part 841, subpart C.

[61 FR 41721, Aug. 9, 1996, as amended at 68 FR 2179, Jan. 16, 2003]

### § 847.105 Agency responsibilities.

(a) Each agency is responsible for notifying its employees of the opportunity to make an election under this part and for determining if an employee who wishes to make an election under subparts B and D of this part is qualified to do so, and for counseling employees in accordance with guidance issued by OPM.

(b) If an agency determines that an employee is not eligible to make an election under subparts B and D of this part, the agency shall issue a final decision to the employee that meets the requirements of § 847.106, including notice of the right to appeal under § 847.107.

[68 FR 2179, Jan. 16, 2003]

### § 847.106 Agency decision concerning eligibility.

(a) If the agency determines that the employee is not eligible to make an election under subpart B or D of this part, it must issue a final decision to the employee.

(b) A final decision shall be in writing, shall fully set forth the findings and conclusions of the agency, and shall contain notice of the right to request an appeal provided in § 847.107.

[61 FR 41721, Aug. 9, 1996, as amended at 68 FR 2179, Jan. 16, 2003]

### § 847.107 Appeals to MSPB.

(a) An individual whose rights or interests under the CSRS or FERS are affected by a final decision of the employing agency may request the Merit Systems Protection Board to review such decision in accordance with procedures prescribed by the Board.

(b) Paragraph (a) of this section is the exclusive remedy for review of agency decisions concerning eligibility to make an election under subparts B and D of this part. An agency decision

must not allow review under any employee grievance procedures, including those established by 5 U.S.C. chapter 71, and 5 CFR part 771.

[61 FR 41721, Aug. 9, 1996, as amended at 68 FR 2179, Jan. 16, 2003]

### § 847.108 Computation of time.

In computing a period of time for filing documents, the day of the action or event after which the designated period of time begins to run is not included. The last day of the period is included unless it is a Saturday, a Sunday, or a legal holiday; in this event, the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.

## Subpart B—Elections To Continue Retirement Coverage After a Qualifying Move

### § 847.201 Purpose and scope.

This subpart contains OPM's regulations on the procedures, eligibility requirements, time limits and effects of elections under sections 8347(q) and 8461(n) of title 5, United States Code.

### § 847.202 Definition of qualifying move.

(a) A qualifying move occurring on or after December 28, 2001, that would allow an opportunity to elect to continue retirement coverage under CSRS and FERS must meet all of the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue CSRS or FERS retirement coverage.

(2) The employee must have moved from a position covered by CSRS or FERS to a retirement-covered position in an NAFI, and

(3) The employee must begin employment in a retirement-covered position in an NAFI no later than 1 year after separation from CSRS- or FERS-covered employment.

(b) A qualifying move occurring on or after December 28, 2001, that would allow an opportunity to elect to continue retirement coverage under an NAFI retirement system must meet all the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue NAFI retirement system coverage;

(2) The employee must have moved from an NAFI to a civil service position subject to CSRS or FERS coverage; and

(3) The employee must be appointed to a CSRS- or FERS-covered position no later than 1 year after separation from retirement-covered NAFI employment.

(c) A qualifying move occurring on or after August 10, 1996, and before December 28, 2001, that would allow an opportunity to elect to continue retirement coverage under CSRS and FERS must meet all the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue CSRS or FERS retirement coverage;

(2) The employee must have been vested in CSRS or FERS prior to the move to an NAFI;

(3) The employee must have moved from a position covered by CSRS or FERS to a retirement-covered position in an NAFI; and

(4) The employee must begin employment in a retirement-covered position in an NAFI no later than 1 year after separation from CSRS- or FERS-covered employment.

(d) A qualifying move occurring on or after August 10, 1996, and before December 28, 2001, that would allow an opportunity to elect to continue retirement coverage under an NAFI retirement system must meet all the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue NAFI retirement system coverage;

(2) The employee must have been a vested participant in the NAFI retirement system (as the term “vested participant” is defined by that retirement system) prior to the move to a CSRS- or FERS-covered position;

(3) The employee must have moved from an NAFI to a civil service position subject to CSRS or FERS coverage; and

(4) The employee must be appointed to a CSRS- or FERS-covered position no later than 1 year after separation

from retirement-covered NAFI employment.

(e) A qualifying move occurring between January 1, 1987, and August 9, 1996, that would allow an opportunity to elect to continue retirement coverage under CSRS or FERS must meet all the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue CSRS or FERS retirement coverage;

(2) The employee must have been vested in CSRS or FERS prior to the move to an NAFI;

(3) The employee must have moved from a CSRS- or FERS-covered position within the Department of Defense or the U.S. Coast Guard to a retirement-covered position with an NAFI; and

(4) The employee must begin employment in a retirement-covered position in an NAFI no later than 4 days after separation from CSRS- or FERS-covered employment.

(f) A qualifying move occurring between January 1, 1987, and August 9, 1996, that would allow an opportunity to elect to continue retirement coverage under an NAFI retirement system must meet all the following criteria:

(1) The employee must not have had a prior opportunity to elect to continue NAFI retirement system coverage;

(2) The employee must have been a vested participant in the NAFI retirement system (as the term “vested participant” is defined by that retirement system) prior to the move to the civil service;

(3) The employee must have moved from an NAFI to a CSRS- or FERS-covered position within the Department of Defense or the U.S. Coast Guard; and

(4) The employee must be appointed to a CSRS- or FERS-covered position no later than 4 days after separation from retirement-covered NAFI employment.

(g) A qualifying move under paragraphs (a), (b), (c), and (d) of this section is considered to occur on the date the individual enters into the new position, not at the time of separation from the prior position.

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(h) A retroactive election opportunity under subpart D of this part (pertaining to elections of CSRS, FERS, or NAFI retirement coverage) is not considered a prior opportunity to elect retirement coverage under this section.

[68 FR 2179, Jan. 16, 2003]

### § 847.203 Elections of CSRS coverage.

(a) An employee who completes a qualifying move (under § 847.202(a), (c), or (e)) from a CSRS-covered position to an NAFI may elect to continue CSRS coverage.

(b) An employee who elects CSRS coverage under this section will be covered by CSRS (or FERS, if the employee subsequently transfers to FERS under part 846 of this chapter) during all periods of future service not excluded from coverage by CSRS, including any periods of service with a NAFI.

(c) An employee who makes an election under paragraph (a) of this section and who has had a break in service exceeding 3 days is eligible to elect FERS under part 846 of this chapter.

[61 FR 41721, Aug. 9, 1996, as amended at 68 FR 2180, Jan. 16, 2003]

### § 847.204 Elections of FERS coverage.

(a) An employee who completes a qualifying move under § 847.202(a), (c) or (e) from an FERS-covered position to an NAFI may elect to continue FERS coverage.

(b) An employee who elects FERS coverage under this section will be covered by FERS during all periods of future service not excluded from coverage by FERS, including any periods of service with a NAFI.

[61 FR 41721, Aug. 9, 1996, as amended at 68 FR 2180, Jan. 16, 2003]

### § 847.205 Elections of NAFI retirement system coverage.

(a) An employee who completes a qualifying move under § 847.202(b), (d), or (f), from an NAFI position to a CSRS- or FERS-covered position may elect to continue coverage under the NAFI retirement system.

(b) An employee who elects NAFI retirement system coverage under this section is excluded from coverage under CSRS or FERS during that and

all subsequent periods of employment, including any periods of service as a re-employed annuitant.

[61 FR 41721, Aug. 9, 1996, as amended at 68 FR 2180, Jan. 16, 2003]

### § 847.206 Time limit for making an election.

(a) Except as provided in paragraph (b) of this section, the time limit for making the election is 30 days after the qualifying move.

(b) Agencies may waive the time limit if it finds that the employee was not timely given the opportunity to make the election, or, despite due diligence, was prevented by circumstances beyond his or her control from making an election within the time limit.

(c) An agency decision to waive the time limit must comply with the provisions of § 847.106, including notification of the right of appeal under § 847.107.

### § 847.207 Effective dates of elections.

Elections under this subpart are effective on the date of the qualifying move.

### § 847.208 Changes of election.

An election under this subpart is irrevocable when received by the employing agency.

### § 847.209 Collection of CSRS and FERS retirement contributions from NAFI employers.

CSRS and FERS salary deductions and contributions for NAFI employees who have elected CSRS or FERS coverage under this subpart must be made and submitted to OPM in the manner currently prescribed for the transmission of withholdings and contributions.

### § 847.210 Collection of NAFI retirement contributions from Federal agencies.

The Department of Defense and the U.S. Coast Guard will establish procedures for agencies to withhold and submit retirement contributions to the retirement systems for employees who elect to be covered by a retirement system for NAFI employees under this subpart.